

Humberto M. Guizar, Esq., (SBN 125769)

HGuizar@GHCLegal.com

**LAW OFFICES OF HUMBERTO GUIZAR
A PROFESSIONAL CORPORATION**

3500 W. Beverly Blvd.,
Montebello, California 90640
Tel: (323) 725-1151; Fax: (323) 597-0101

Christian Contreras, Esq., (SBN 330269)

CC@Contreras-Law.com

Edwin S. Salguero, Esq., (SBN 344820)

ES@Contreras-Law.com

**LAW OFFICES OF CHRISTIAN CONTRERAS
PROFESSIONAL LAW CORPORATION**

360 E. 2nd St., 8th Floor
Los Angeles, California 90012
Tel: (323) 435-8000; Fax: (323) 597-0101

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF MARGARITA LUNA, by)
and through her successors in interests;)
D.P.1, individually and as a successor in)
interest, represented by and through her)
guardian ad litem, ROBERT LUNA;)
D.P.2, individually and as a successor in)
interest, represented by and through his)
guardian ad litem, ROBERT LUNA;)
RAYMUNDO LUNA, individually;)
MARGARITA LUNA SR., individually,)

Plaintiffs,

v.

ORANGE COUNTY SHERIFF'S)
DEPARTMENT, a public entity;)
ORANGE COUNTY, a public entity;)
SHERIFF DON BARNES, in his)
individual capacity; SERGEANT)
ALIAN SIRGY, individually; DEPUTY)
KENNETH HARNDEN, individually;)
DEPUTY AIMEE HIDALGO,)
individually; DEPUTY ALYSSA)
MADDALENA, individually; and)
DOES 1-10, individually,)

Defendants.

CASE NO.: 8:23-cv-2180

COMPLAINT FOR DAMAGES

1. Failure to Protect from Harm,)
Fourteenth Amendment Violation (42)
U.S.C. § 1983);
2. Failure to Provide Medical Care,)
Fourteenth Amendment Violation (42)
U.S.C. § 1983);
3. Deprivation of the Right to Familial)
Relationship with Decedent (42)
U.S.C. § 1983);
4. Policies, Customs, Practices Causing)
Constitutional Violations (*Monell*, 42)
U.S.C. § 1983);
5. Supervisory Liability Causing)
Constitutional Violations (Failure to)
Properly Train, Supervise and)
Discipline, 42 U.S.C. § 1983);
6. Negligence – Wrongful Death;
7. Negligence – Medical Malpractice;
8. Violation of California Government)
Code §845.6;
9. Violation of California Civil Code)
§52.1 (Tom Bane Act);

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the
3 Fourth and Fourteenth Amendments to the United States Constitution, and the laws and
4 Constitution of the State of California. Jurisdiction is conferred upon this Court by 28
5 U.S.C. §§ 1331 and 1343.

6 2. Venue is proper within the Central District of California pursuant to 28
7 U.S.C. § 1391(b)(1) and (2) because all Defendants reside within this district and the
8 events and omissions giving rise to Plaintiffs' claims occurred within this district.

9 3. Plaintiffs have complied with the California Tort Claims Act requirements
10 with respect to their claims arising under state law.

11 4. With respect to these supplemental state claims, Plaintiffs request that this
12 Court exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over such claims
13 as they arise from the same facts and circumstances which underlie the federal claims.

PARTIES

14
15 5. Plaintiffs D.P.1, and D.P.2, were the natural children of MARGARITA
16 LUNA (hereafter "LUNA" or "DECEDENT"), and at all times relevant hereto were
17 residents of Orange County, California. Plaintiffs D.P.1, and D.P.2 bring these claims
18 pursuant to California Code of Civil Procedure §§ 377.20 *et seq.* and 377.60 *et seq.*,
19 which provide for survival and wrongful death actions. Plaintiff D.P.1, and D.P.2 also
20 bring these claims individually and on behalf of decedent MARGARITA LUNA on
21 the basis of 42 U.S.C. § 1983 and § 1988, the United States Constitution, federal and
22 state civil rights law and California law. Plaintiffs D.P.1, and D.P.2 also bring these
23 claims as a Private Attorney General, to vindicate not only their rights, but others' civil
24 rights of great importance.

25 6. Plaintiff RAYMUNDO LUNA, and at all times relevant hereto was a
26 resident of Orange County, California. Plaintiff RAYMUNDO LUNA is
27 DECEDENT's father and brings his claims in his individual capacity.

28 ///

1 7. Plaintiff MARGARITA LUNA SR., and at all times relevant hereto was
2 a resident of Orange County, California. Plaintiff MARGARITA LUNA SR. brings her
3 claims in his individual capacity.

4 8. Defendant COUNTY OF ORANGE is a chartered subdivision of the State
5 of California with the capacity to sue and be sued.

6 9. Defendant ORANGE COUNTY SHERIFF’S DEPARTMENT (“OCSD”) is the sheriff’s
7 department for Defendant COUNTY, and OCSD is also a separate legal
8 entity.¹

9 10. Defendant SHERIFF DON BARNES (hereinafter also “BARNES”), at all
10 times mentioned herein, was the Sheriff of Defendant ORANGE COUNTY, the highest
11 position in the COUNTY Jails. As Sheriff, Defendant BARNES is and was responsible
12 for the hiring, screening, training, retention, supervision, discipline, counseling, and
13 control of all COUNTY Jails’ employees and/or agents. Defendant BARNES is and
14 was charged by law with oversight and administration of the COUNTY Jails, including
15 ensuring the safety of the inmates housed therein. Defendant BARNES also is and was
16 responsible for the promulgation of the policies and procedures and allowance of the
17 practices/customs pursuant to which the acts of the COUNTY Jails alleged herein were
18 committed. Defendant BARNES is being sued in his individual and official capacities.

19 11. At all relevant times, Defendants SERGEANT ALIAN SIRGY, DEPUTY
20 KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA
21 MADDALENA, and DOES 1-10, inclusive, were individuals employed as
22 employees/deputies with the defendant OCSD, acting within the course and scope of
23 that employment, under color of law.

24 12. Plaintiffs are ignorant of the true names and capacities of Defendants DOES
25 1 through 10 (“DOE Defendants”) and therefore sue these Defendants by such fictitious

26
27 ¹ The Ninth Circuit has held that California law permits § 1983 claims against municipal police
28 departments. *See Karim-Panahi v. Los Angeles Police Dep’t*, 839 F.2d 621, 624 n. 2 (9th Cir. 1988)
 (“Municipal police departments are ‘public entities’ under California law and, hence, can be sued in
 federal court for alleged civil rights violations.).

1 names. Plaintiffs are informed and believe and thereon allege that each Defendant so
2 named is responsible in some manner for the injuries and damages sustained by Plaintiffs
3 as set forth herein. Plaintiffs will amend their complaint to state the names and capacities
4 of each DOE Defendant when they have been ascertained.

5 13. The identities, capacities, and/or nature of involvement of the defendants
6 sued as DOES 1 through 10 are presently unknown to the Plaintiffs who therefore sue
7 these defendants by fictitious names. Plaintiffs are informed, believe, and thereupon
8 allege that DOES 1 through 10 include individual law enforcement personnel and
9 medical personnel employed by the OCSD and the COUNTY Correctional Health
10 Services, and that they were involved in some manner and are legally responsible for
11 the wrongful acts and conduct alleged herein. Plaintiffs will amend this complaint to
12 substitute the DOE Defendants' true names and capacities when they have been
13 ascertained. Plaintiffs are informed, believe, and thereupon allege that each DOE
14 defendant is a resident of California. Upon information and belief, DOES 1 through 10
15 were and still are residents of ORANGE COUNTY, California. DOES 1 through 10 are
16 sued in both their individual and official capacities.

17 14. At all relevant times, DOES 7 and 8 were managerial, supervisory, training,
18 and/or policymaking employees of Defendant COUNTY Correctional Health
19 Services. At the time of the incident, DOES 7 and 8 were acting under color of law within
20 the course and scope of their duties as employees for the COUNTY Correctional Health
21 Services. They had supervisory authority over DOES 1-10, and the COUNTY
22 Correctional Health Services employees at the COUNTY Jails. DOES 7 and 8 were
23 acting with the complete authority and ratification of their principal, Defendant
24 COUNTY.

25 15. At all relevant times, DOES 9 and 10 were managerial, supervisory, training,
26 and/or policymaking employees of Defendant COUNTY. At the time of the
27 incident, DOES 9 and 10 were acting under color of law within the course and scope of
28 their duties as employees for the OCSD and/or the COUNTY. They had supervisory

1 authority over DOES 1-10, and the employees of the OCSD. DOES 9 and 10 were acting
2 with the complete authority and ratification of their principal, Defendant COUNTY.

3 16. Each of the defendants, including the DOE defendants, caused, and is
4 responsible for, the unlawful conduct and resulting injuries suffered by Plaintiffs by,
5 among other things, personally participating in the unlawful conduct, acting jointly, or
6 conspiring with others who did so; by ordering, authorizing, acquiescing in, or setting
7 in motion policies, plans, or actions that led to the unlawful conduct, by failing to take
8 action to prevent the unlawful conduct; by failing and refusing to initiate and maintain
9 adequate training and supervision; by failing to enact policies to address the
10 constitutional rights of protesters despite the obvious need for such a policy; and by
11 ratifying the unlawful conduct that occurred by agents and officers under their direction
12 and control, including failing to take remedial or disciplinary action.

13 17. Plaintiffs are informed and believe and thereon allege that each of the
14 Defendants was at all material times an agent, servant, employee, partner, joint venturer,
15 co-conspirator, and/or alter ego of the remaining Defendants, and in doing the things
16 herein alleged, was acting within the course and scope of that relationship. Plaintiffs are
17 further informed and believe and thereon allege that each of the Defendants herein gave
18 consent, aid, and assistance to each of the remaining Defendants, and ratified and/or
19 authorized the acts or omissions of each Defendant as alleged herein, except as may be
20 hereinafter specifically alleged. At all material times, each Defendant was jointly
21 engaged in tortious activity and an integral participant in the conduct described herein,
22 resulting in the deprivation of Plaintiffs' and decedent MARGARITA LUNA's
23 constitutional rights and other harm.

24 18. Plaintiffs are informed, believe, and thereupon allege that, at all times
25 relevant hereto, Defendants, and each of them, acted as the agents, servants, and
26 employees of each of the other defendants.

27 19. In doing each of the acts and/or omissions alleged herein, Defendants, and
28 each of them, acted within the course and scope of their employment.

20. In doing each of the acts and/or omissions alleged herein, Defendants, and each of them, acted under color of authority and/or under the color of law.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

21. On September 11, 2022, Decedent MARGARITA LUNA was taken into the custody of the Orange County Sheriff's Department. Upon information and belief, MARGARITA LUNA was booked into the Orange County Intake and Release Center and completed a preliminary medical and psychological screening.

22. Decedent MARGARITA LUNA was arraigned on September 13, 2022, and was sentenced to serve ninety (90) days with eight (8) days credit for time served. Given that MARGARITA LUNA was only sentenced to ninety (90) days and for a minor misdemeanor, MARGARITA LUNA was ordered to serve her time in an OCSD jail. Decedent had a sentence ending date of October 24, 2022, however, Decedent MARGARITA LUNA did not live long enough to be released.

23. On September 28, 2022, Decedent MARGARITA LUNA in the Intake Release Center of the OCSD jail in Santa Ana. The Intake Release Center is not a permanent housing facility and not fully equipped for handle medical needs for individuals who have certain medical conditions. Upon information and belief, prior to arriving to the Intake Release Center, MARGARITA LUNA was experiencing obvious symptoms of a serious medical condition. However, Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1-10, inclusive, who were present at the Intake Release Center, did not provide adequate medical care to MARGARITA LUNA.

24. MARGARITA LUNA medical condition worsened to such a critical condition that MARGARITA LUNA was transported via ambulance to the Orange County Global Medical Center in Santa Ana at the request of COUNTY medical staff, RN Forband, and Dr. L. Lin. Upon information and belief, Decedent MARGARITA LUNA needed hospitalization due to shortness of breath, vomiting, and nausea.

///

1 25. On September 29, 2022, Decedent MARGARITA LUNA was
2 pronounced deceased by Orange County Global Medical Center Dr. I. Iman.

3 26. Decedent MARGARITA LUNA was a healthy forty-four (44) year-old
4 woman with no prior history of disease or other medical complications. Accordingly,
5 the circumstances of MARGARITA LUNA's death are not consistent with natural
6 causes. With particular concern for the OCSD's reticence about the details of Decedent
7 MARGARITA LUNA's death, the present claimants are informed, believe, and
8 thereon allege that Decedent MARGARITA LUNA's death was a product of reckless
9 exposure to preventable dangers and/or cruel or unusual conditions of confinement in
10 the Orange County Intake and Release Center, deliberate indifference to manifest
11 medical needs, exposure to violence, or some combination thereof.

12 27. Upon information and belief, knowing that MARGARITA LUNA was
13 experiencing a serious health condition, Defendants SERGEANT ALIAN SIRGY,
14 DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY
15 ALYSSA MADDALENA, and DOES 1-10, inclusive, and each of them, deliberately
16 failed to immediately address MARGARITA LUNA's medical needs.

17 28. Upon information and belief, Defendants SERGEANT ALIAN SIRGY,
18 DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY
19 ALYSSA MADDALENA, and DOES 1-10, inclusive, had an opportunity to observe
20 the clear signs of MARGARITA LUNA's dire medical needs. However, despite these
21 express signs, Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH
22 HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and
23 DOES 1-10, inclusive, were indifferent to MARGARITA LUNA's health and safety.

24 29. Upon information and belief, Defendants SERGEANT ALIAN SIRGY,
25 DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY
26 ALYSSA MADDALENA, and DOES 1-10, inclusive, did not perform timely Title 15
27 welfare and safety checks such that Defendants SERGEANT ALIAN SIRGY,
28 DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY

1 ALYSSA MADDALENA, and DOES 1-10, inclusive, could have rendered life saving
2 measures to MARGARITA LUNA.

3 30. Upon information and belief, due to the COUNTY Jails patterns and
4 practices of not conducting proper and timely Title 15 welfare and safety checks,
5 MARGARITA LUNA's dire need for emergency medical intervention went unnoticed
6 by the Orange County Intake and Release Center custody, medical and mental health
7 staff, who were responsible for monitoring and ensuring the welfare of all inmates,
8 including Decedent MARGARITA LUNA.

9 **FIRST CLAIM FOR RELIEF**

10 **Failure to Protect from Harm,**

11 **Violation of the Fourteenth Amendment to the United States Constitution**

12 **(Survival Action – 42 U.S.C. § 1983)**

13 **By Plaintiff Estate of MARGARITA LUNA As Against Defendants SERGEANT**
14 **ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE**
15 **HIDALGO, DEPUTY ALYSSA MADDALENA, and, DOES 1 through 10**

16 31. Plaintiffs reallege and incorporate herein by reference each of the
17 preceding paragraphs of this complaint, and any subsequent paragraphs.

18 32. Defendants COUNTY, OCSO, SERGEANT ALIAN SIRGY, DEPUTY
19 KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA
20 MADDALENA, and DOES 1 through 10 were on notice that their deficient policies,
21 procedures, and practices alleged herein created a substantial risk of serious harm to an
22 inmate in decedent MARGARITA LUNA's position.

23 33. Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH
24 HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and
25 DOES 1 through 10, could have taken action to prevent unnecessary harm to decedent
26 MARGARITA LUNA but refused or failed to do so.

27 ///

1 34. By policy, procedure, and practice, Defendants COUNTY, OCSD,
2 SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE
3 HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1 through 10 deliberately
4 disregarded the hazards and risks posed to persons incarcerated/detained at the Orange
5 County Intake and Release Center, as alleged above. Defendants failed to take any
6 reasonable steps to mitigate the obvious and well-known risks of harm that was
7 attendant to housing decedent MARGARITA LUNA at the Orange County Intake and
8 Release Center.

9 35. Defendants including SHERIFF DON BARNES, and DOES 8 through
10 10 also knew that deputies routinely failed to conduct required welfare and safety
11 checks at the COUNTY Jails, including the Orange County Intake and Release Center,
12 and failed to take sufficient actions to correct this problem and ensure that necessary
13 checks were performed.

14 36. Defendant SHERIFF DON BARNES failed to take corrective action,
15 discipline, or remove the command staff at the COUNTY Jails, including the Orange
16 County Intake and Release Center, who, upon information and belief, directed the
17 deputies to falsify safety check logs and violate the COUNTY's safety check policies.
18 Defendant SHERIFF DON BARNES ratified their actions, and the practices used
19 under his watch.

20 37. Defendants COUNTY, OCSD, SERGEANT ALIAN SIRGY, DEPUTY
21 KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA
22 MADDALENA, and DOES 1 through 10 were on notice that their policies, procedures,
23 and practices for monitoring inmates at the COUNTY Jails, including the Orange
24 County Intake and Release Center, were inadequate and gave rise to a substantial risk
25 of serious harm.

26 38. Defendants including SHERIFF DON BARNES, and DOES 8 through 10
27 failed to properly train and supervise OCSD custody, medical and mental health staff
28 regarding policies, procedures, and practices necessary for the protection of inmates

1 from risks and hazards existing within the COUNTY Jails, including the Orange
2 County Intake and Release Center.

3 39. Defendants including SHERIFF DON BARNES, and DOES 8 through
4 10's failure to correct their policies, procedures, and practices despite notice of
5 significant and dangerous problems evidences deliberate indifference to the inmates in
6 their care.

7 40. Defendants SHERIFF DON BARNES, and DOES 8 through 10 ratified
8 Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN,
9 DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES's
10 actions and inactions amounting to constitutional violations.

11 41. Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH
12 HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and
13 DOES 1 through 10's failure to conduct the required safety check of decedent
14 MARGARITA LUNA's housing unit on the date leading to her death evidences
15 deliberate indifference to the risk of harm to decedent MARGARITA LUNA.

16 42. Upon information and belief, Defendants SHERIFF DON BARNES, and
17 DOES 8 through 10 ratified Defendants SERGEANT ALIAN SIRGY, DEPUTY
18 KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA
19 MADDALENA, and DOES's failure to conduct safety checks and falsification of logs.

20 43. As a direct and proximate result of Defendants' conduct, the civil right of
21 MARGARITA LUNA, as protected by the Fourteenth Amendment of the United States
22 Constitution were violated. Further, decedent MARGARITA LUNA experienced
23 physical pain, severe emotional distress, and mental anguish, as well as loss of her life
24 and other damages alleged herein.

25 44. Defendants subjected decedent MARGARITA LUNA to their wrongful
26 conduct, depriving DECEDENT of rights described herein, knowingly, maliciously,
27 and with conscious and reckless disregard for whether the rights and safety of Decedent
28 and others would be violated by their acts and/or omissions.

1 SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY
2 ALYSSA MADDALENA, and DOES 1 through 10, were further deliberately
3 indifferent to MARGARITA LUNA's medical needs. Finally, on September 28, 2022,
4 MARGARITA LUNA was found in her cell with shortness of breath, nausea, and
5 vomiting, and died on September 29, 2022, which was caused by Defendants
6 SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE
7 HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1 through 10,, ignoring
8 MARGARITA LUNA's medical needs.

9 51. By the actions and omissions described above, Defendants SERGEANT
10 ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO,
11 DEPUTY ALYSSA MADDALENA, and DOES 1 through 10,, as alleged herein,
12 including but not limited to their failure to provide decedent MARGARITA LUNA
13 with appropriate emergency medical and mental health care, along with the acts and/or
14 omissions of Defendants in failing to train, supervise, and/or promulgate appropriate
15 policies and procedures to provide emergency medical and mental health care and life-
16 saving care to persons in their custody, constituted deliberate indifference to
17 MARGARITA LUNA's serious medical and mental health needs, health, and safety.

18 52. As a direct and proximate result of Defendants' conduct, the civil rights
19 of MARGARITA LUNA, as protected by the Fourteenth Amendment of the United
20 States Constitution were violated. Further, decedent MARGARITA LUNA
21 experienced physical pain, severe emotional distress, and mental anguish, as well as
22 loss of his life and other damages alleged herein.

23 53. Defendants subjected Decedent to their wrongful conduct, depriving
24 Decedent of rights described herein, knowingly, maliciously, and with conscious and
25 reckless disregard for whether the rights and safety of Decedent and others would be
26 violated by their acts and/or omissions.

27 54. As a direct and proximate result of Defendants' acts and/or omissions as
28 set forth above, Decedent, through Plaintiffs herein, sustained injuries and damages.

1 60. The acts and omissions of each Defendants deprived Plaintiffs
2 RAYMUNDO LUNA, D.P.1, and D.P.2, of rights, privileges, and immunities secured
3 by the Constitution and laws of the United States, including but not limited to the
4 Fourteenth Amendment by, among other things, depriving Plaintiffs of their rights to a
5 familial relationship with decedent MARGARITA LUNA without due process of law
6 by their deliberate indifference in denying MARGARITA LUNA protection and safety
7 while incarcerated at the Orange County Intake and Release Center and access to
8 medical care while suffering a medical emergency at the Orange County Intake and
9 Release Center.

10 61. Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH
11 HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and
12 DOES 1 through 10 and the other involved agents and employees acted pursuant to
13 expressly adopted official policies or longstanding practices or customs of the
14 COUNTY and OCSD. These include policies and longstanding practices or customs of
15 failing to provide persons in pretrial custody who are experiencing medical
16 emergencies access to medical care as stated above and incorporated herein.

17 62. In addition, the training policies of the COUNTY and OCSD were not
18 adequate to train its deputies, agents and employees to handle the usual and recurring
19 situations with which they must deal with, including but not limited to encounters with
20 individuals in custody who are experiencing medical emergencies. These Defendants
21 and each of them knew that its failure to adequately train its COUNTY custody,
22 medical and mental health staff, including other agents and employees, to interact with
23 individuals suffering from medical emergencies made it highly predictable that its
24 custody, medical and mental health staff would engage in conduct that would deprive
25 persons such as decedent MARGARITA LUNA, and thus Plaintiffs of their rights.
26 These Defendants were thus deliberately indifferent to the obvious consequences of
27 their failure to train their deputies, agents and employees adequately.

28 ///

1 63. Defendants COUNTY and OCSD's official policies and/or longstanding
2 practices or customs, including but not limited to its training policies, caused the
3 deprivation of the constitutional rights of Plaintiffs RAYMUNDO LUNA, D.P.1,
4 D.P.2, and decedent MARGARITA LUNA by each individual Defendant's official
5 policies and/or longstanding practices or customs are so closely related to
6 MARGARITA LUNA's injuries and death and thus the deprivation of the rights of
7 Plaintiffs as to be the moving force causing those injuries.

8 64. Defendant SHERIFF DON BARNES, a final policymaker for the
9 COUNTY and OCSD, ratified the actions and omissions of Defendants SERGEANT
10 ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO,
11 DEPUTY ALYSSA MADDALENA, and DOES 1 through 10,, all of whom were
12 custody, medical and mental health staff at the COUNTY Jails, including the Orange
13 County Intake and Release Center, in that he had knowledge of and made a deliberate
14 choice to approve their unlawful acts and omissions.

15 65. As a direct and proximate result of Defendants' conduct, the civil rights
16 of MARGARITA LUNA, as protected by the Fourteenth Amendment of the United
17 States Constitution were violated. Further, decedent MARGARITA LUNA
18 experienced physical pain, severe emotional distress, and mental anguish, as well as
19 loss of his life and other damages alleged herein.

20 66. Defendants subjected Decedent to their wrongful conduct, depriving
21 Decedent of rights described herein, knowingly, maliciously, and with conscious and
22 reckless disregard for whether the rights and safety of Decedent and others would be
23 violated by their acts and/or omissions.

24 67. As a direct and proximate result of Defendants' acts and/or omissions as
25 set forth above, Plaintiffs sustained injuries and damages.

26 68. The conduct of Defendants entitles Plaintiffs to punitive damages and
27 penalties allowable under 42 U.S.C. § 1983 and as provided by law. Plaintiffs do not
28 seek punitive damages against Defendants COUNTY.

69. Plaintiffs are also entitled to reasonable costs and attorneys' fees under 42 U.S.C. § 1988, and other applicable United States and California codes and laws.

FOURTH CLAIM FOR RELIEF

Municipal Policies, Customs, Practices Causing Constitutional Violations

(Monell - 42 U.S.C. § 1983)

By Plaintiffs ESTATE OF MARGARITA LUNA As Against Defendants

COUNTY AND OCSD

70. Plaintiffs reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

71. At all times relevant hereto, OCSD andd COUNTY custody, medical and mental health staff were required to adhere to and enforce the following policies and procedures:

- a. To deny pretrial detainees and other inmates access to timely, appropriate, competent, and necessary care for serious medical needs, requiring such inmates in crisis to remain untreated in jail instead of providing for their emergency medical needs;
- b. To allow and encourage deputies doing regular cell checks on inmates, including in safety cells, to fail to document their actual observations of the inmate's condition and status, in violation of Orange County's written policies and state law;
- c. To allow and encourage inadequate and incompetent medical care for jail inmates and arrestees;
- d. To hire, retain and contract for obviously inadequate medical care for jail inmates and arrestees, including creating financial incentives for custodial and medical personnel not to send inmates with emergency medical needs to a hospital;
- e. To allow, encourage, and require medical staff, including licensed vocational nurses and registered nurses, to work outside their legal scope

- 1 of practice and without appropriate supervision;
- 2 f. To fail to train custody staff that medical staff, including licensed
- 3 vocational nurses, are not competent to assess or decide inmates' medical
- 4 conditions, medical needs, or whether the inmate should be permitted to
- 5 remain in the jail versus being sent to a hospital;
- 6 g. To allow, encourage, and require unlicensed, incompetent, inadequately
- 7 trained and/or inadequately supervised staff to assess inmates' medical
- 8 condition, needs, and treatment, including to decide whether or not to
- 9 provide inmates with necessary emergency care and hospitalization;
- 10 h. To fail to institute, require, and enforce proper and adequate training,
- 11 supervision, policies, and procedures concerning handling persons in
- 12 medical crisis;
- 13 i. To cover up violations of constitutional rights by any or all of the
- 14 following:
- 15 i. By failing to properly investigate and/or evaluate incidents of
- 16 violations of rights, including by unconstitutional medical care at
- 17 the jail;
- 18 ii. By ignoring and/or failing to properly and adequately investigate
- 19 and/or investigate and discipline unconstitutional or unlawful
- 20 conduct by custodial and medical personnel;
- 21 iii. By turning a blind eye to custodial and medical personnel who
- 22 direct, aid, and/or assist with the distribution of hazards, including
- 23 illicit drugs, into Orange County jails; and
- 24 iv. By allowing, tolerating, and/or encouraging custodial and medical
- 25 personnel to: fail to file complete and accurate reports; file false
- 26 reports; make false statements; and/or obstruct or interfere with
- 27 investigations of unconstitutional or unlawful conduct by
- 28 withholding and/or concealing material information;

1 j. To allow, tolerate, and/or encourage a “code of silence” among law
 2 enforcement officers, OCSD personnel, custodial personnel and medical
 3 personnel at the jail whereby an officer or member of the OCSD or
 4 medical staff does not provide adverse information against a fellow
 5 officer, or member of the OCSD or the medical staff;

6 k. To fail to have and enforce necessary, appropriate, and lawful policies,
 7 procedures, and training programs to prevent or correct the
 8 unconstitutional conduct, customs, and procedures described in
 9 subparagraphs (a) through (j) above, with deliberate indifference to the
 10 rights and safety of pretrial detainees, such as Decedent, and in the face of
 11 an obvious need for such policies, procedures, and training programs.

12 72. The unconstitutional actions and/or omissions of Defendants SERGEANT
 13 ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO,
 14 DEPUTY ALYSSA MADDALENA, and DOES 1 through 10, as well as other officers
 15 employed by or acting on behalf of the COUNTY and OCSD, on information and
 16 belief, were pursuant to the following customs, policies, practices, and/or procedures
 17 of the COUNTY and the OCSD, stated in the alternative, which were directed,
 18 encouraged, allowed, and/or ratified by policymaking officers for the COUNTY and
 19 OCSD, including SHERIFF DON BARNES:

20 a. To fail to properly and adequately hire, train, supervise, and monitor
 21 custodial and medical personnel at the jails;

22 b. To fail to use appropriate and generally accepted law enforcement
 23 procedures for handling persons in medical crisis;

24 c. To fail to institute, require, and enforce proper and adequate training,
 25 supervision, policies, and procedures concerning handling persons in
 26 medical crisis;

27 d. To cover up violations of constitutional rights by any or all of the
 28 following:

- i. By failing to properly investigate and/or evaluate complaints or incidents of handling of persons in medical crisis;
- ii. By ignoring and/or failing to properly and adequately investigate and/or discipline unconstitutional or unlawful law enforcement activity; and
- iii. By allowing, tolerating, and/or encouraging law enforcement officers to: fail to file complete and accurate reports; file false reports; make false statements; intimidate, bias and/or “coach” witnesses to give false information and/or to attempt to bolster officers’ stories; and/or obstruct or interfere with investigations of unconstitutional or unlawful law enforcement conduct by withholding and/or concealing material information;
- e. To allow, tolerate, and/or encourage a “code of silence” among law enforcement officers whereby an officer does not provide adverse information against a fellow law enforcement officer;
- f. To allow, tolerate, and/or encourage a “code of silence” among custodial and medical personnel at the COUNTY jails whereby custodial and medical personnel does not provide adverse information against a fellow staffer;
- g. To fail to have and enforce necessary, appropriate, and lawful policies, procedures, and training programs to prevent or correct the unconstitutional conduct, customs, and procedures described in subparagraphs (a) through (g) above, with deliberate indifference to the rights and safety of pretrial detainees, such as Decedent, and in the face of an obvious need for such policies, procedures, and training programs.

73. Defendants COUNTY and OCSD, through their employees and agents, and through their policy-making supervisors, SHERIFF DON BARNES and DOES 8 through 10, failed to properly hire, train, instruct, monitor, supervise, evaluate,

1 investigate, and discipline Defendants SERGEANT ALIAN SIRGY, DEPUTY
2 KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA
3 MADDALENA, and DOES 1 through 10, and other COUNTY and OCSD personnel,
4 with deliberate indifference to the constitutional rights of decedent MARGARITA
5 LUNA, Plaintiffs and others in similar positions, as described above, and therefore,
6 those rights thereby violated.

7 74. The unconstitutional actions and/or omissions of Defendants SERGEANT
8 ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO,
9 DEPUTY ALYSSA MADDALENA, and DOES 1 through 10, and other OCSD
10 custody and medical staff, as described above, were approved, tolerated, and/or ratified
11 by policymaking officers for the COUNTY and OCSD, including Defendants
12 SHERIFF DON BARNES and DOES 8 through 10. Plaintiffs are informed and believe
13 and thereon allege that the details of this incident have been revealed to the authorized
14 policymakers within the COUNTY and OCSD, and that such policymakers have direct
15 knowledge of the fact that the death of MARGARITA LUNA was the result of
16 deliberate indifference to his rights to be protected and safe while in the custody of the
17 COUNTY/OCSD, and his rights to have access to medical care when suffering a
18 medical emergency. Notwithstanding this knowledge, the authorized policymakers
19 within the COUNTY and OCSD have approved of the conduct and decisions of
20 Defendants DOES 1 through 10 in this matter, and have made a deliberate choice to
21 endorse such conduct and decisions, and the basis for them, that resulted in the death
22 of MARGARITA LUNA. By so doing, the authorized policymakers within the
23 COUNTY and OCSD have shown affirmative agreement with the individual
24 Defendants' actions and have ratified the unconstitutional acts of the individual
25 Defendants. Furthermore, Plaintiffs are informed and believe, and thereupon allege,
26 that Defendants SHERIFF DON BARNES and DOES 8 through 10, and other policy-
27 making officers for the COUNTY and OCSD were and are aware of a pattern of
28 misconduct and injury caused by COUNTY Jails custody and medical staff similar to

1 the conduct of Defendants described herein, but failed to discipline culpable custody
 2 and medical staff and failed to institute new procedures and policy within the
 3 COUNTY and OCSD.

4 75. The aforementioned customs, policies, practices, and procedures; the
 5 failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate,
 6 investigate, and discipline; and the unconstitutional orders, approvals, ratification, and
 7 toleration of wrongful conduct of Defendants COUNTY and OCSD were a moving
 8 force and/or a proximate cause of the deprivations of decedent MARGARITA LUNA's
 9 clearly established and well-settled constitutional rights in violation of 42 U.S.C. §
 10 1983. Defendants subjected decedent MARGARITA LUNA to their wrongful conduct,
 11 depriving decedent MARGARITA LUNA of rights described herein, knowingly,
 12 maliciously, and with conscious and reckless disregard for whether the rights and safety
 13 of decedent MARGARITA LUNA, Plaintiff and others would be violated by their acts
 14 and/or omissions.

15 76. As a direct and proximate result of the unconstitutional actions, omissions,
 16 customs, policies, practices, and procedures of Defendants COUNTY and OCSD, as
 17 described above, decedent MARGARITA LUNA suffered serious injuries and death,
 18 Plaintiff is entitled to damages, penalties, costs, and attorneys' fees against Defendants
 19 COUNTY and OCSD.

20 **FIFTH CLAIM FOR RELIEF**

21 **Supervisory Liability Causing Constitutional Violations,**

22 **(Failure to Properly Train, Supervise and Discipline, 42 U.S.C. § 1983)**

23 **By Plaintiff Estate of MARGARITA LUNA As Against Defendants SHERIFF**

24 **DON BARNES, and DOES 7 through 10**

25 77. Plaintiffs reallege and incorporate herein by reference each of the
 26 preceding paragraphs of this complaint, and any subsequent paragraphs.

27 78. At all material times, SHERIFF DON BARNES and DOES 8 through 10
 28 had the duty and responsibility to constitutionally hire, train, instruct, monitor,

1 supervise, evaluate, investigate, staff, and discipline the other Defendants employed by
2 their respective agencies in this matter, as well as all employees and agents of the
3 COUNTY and OCSD.

4 79. Defendants SHERIFF DON BARNES, and DOES 8 through 10 failed to
5 properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline
6 the respective employees of their agencies, including Defendants DOES 1 through 10,
7 and other COUNTY and OCSD personnel, with deliberate indifference to Plaintiffs',
8 decedent MARGARITA LUNA's, and others' constitutional rights,
9 which were thereby violated as described above.

10 80. As supervisors, Defendants SHERIFF DON BARNES, and DOES 8
11 through 10 each permitted and failed to prevent the unconstitutional acts of other
12 Defendants and individuals under their supervision and control, and failed to properly
13 supervise such individuals, with deliberate indifference to the rights to safety and
14 protections while incarcerated at Orange County Intake and Release Center and the
15 rights to the serious medical and mental health needs of decedent MARGARITA
16 LUNA Supervising Defendants either directed his or her subordinates in conduct that
17 violated Decedent's rights, or set in motion a series of acts and omissions by his or her
18 subordinates that the supervisor knew or reasonably should have known would deprive
19 decedent MARGARITA LUNA of rights, or knew his or her subordinates were
20 engaging in acts likely to deprive decedent MARGARITA LUNA of rights and failed
21 to act to prevent his or her subordinate from engaging in such conduct, or disregarded
22 the consequence of a known or obvious training deficiency that he or she must have
23 known would cause subordinates to violate decedent MARGARITA LUNA's rights,
24 and in fact did cause the violation of decedent MARGARITA LUNA's rights. (*See*,
25 Ninth Circuit Model Civil Jury Instruction 9.4). Furthermore, each of these supervising
26 Defendants is liable in their failures to intervene in their subordinates' apparent
27 violations of decedent MARGARITA LUNA's rights.

28 ///

1 81. The unconstitutional customs, policies, practices, and/or procedures of
2 Defendants COUNTY and OCSD, as stated herein, were directed, encouraged,
3 allowed, and/or ratified by policymaking officers for Defendants COUNTY and
4 OCSD, including Defendants SHERIFF DON BARNES, and DOES 8 through 10,
5 respectively, with deliberate indifference to Plaintiff's, decedent MARGARITA
6 LUNA's, and others' constitutional rights, which were thereby violated as described
7 above.

8 82. The unconstitutional actions and/or omissions of Defendants SERGEANT
9 ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO,
10 DEPUTY ALYSSA MADDALENA, and DOES 1 through 10,, and other COUNTY
11 and OCSD personnel, as described above, were approved, tolerated, and/or ratified by
12 policymaking officers for the COUNTY and OCSD, including Defendants SHERIFF
13 DON BARNES, and DOES 8 through 10.

14 83. Plaintiff is informed and believes and thereon alleges that the details of
15 this incident have been revealed to Defendants SHERIFF DON BARNES, and DOES
16 8 through 10 and that such Defendant-policymakers have direct knowledge of the fact
17 that the death of decedent MARGARITA LUNA was not justified or necessary, but
18 represented deliberate indifference to her rights to be protected and safe while in the
19 COUNTY's custody and her rights to her serious medical and mental health needs, as
20 set forth above. Notwithstanding this knowledge, on information and belief,
21 Defendants SHERIFF DON BARNES and DOES 8 through 10 have approved and
22 ratified of the conduct and decisions of Defendants DOES 1 through 10 in this matter,
23 and have made a deliberate choice to endorse such conduct and decisions, and the basis
24 for them, that resulted in the death of MARGARITA LUNA. By so doing, Defendants
25 SHERIFF DON BARNES and DOES 8 through 10 have shown affirmative agreement
26 with the individual Defendants' actions and have ratified the unconstitutional acts of
27 the individual Defendants.

28 ///

1 84. Furthermore, Plaintiffs are informed and believe, and thereupon allege,
2 that Defendants SHERIFF DON BARNES, and DOES 8 through 10 and other
3 policymaking officers for the COUNTY and OCSD were and are aware of a pattern of
4 misconduct and injury, and a code of silence, caused by COUNTY and OCSD custody,
5 medical and mental health staff personnel similar to the conduct of Defendants
6 described herein, but failed to discipline culpable law enforcement officers and
7 employees and failed to institute new procedures and policy within the COUNTY and
8 OCSD.

9 85. The aforementioned customs, policies, practices, and procedures; the
10 failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate,
11 investigate, and discipline; and the unconstitutional orders, approvals, ratification, and
12 toleration of wrongful conduct of Defendants SHERIFF DON BARNES, and DOES 8
13 through 10 were a moving force and/or a proximate cause of the deprivations of
14 decedent MARGARITA LUNA's clearly established and well-settled constitutional
15 rights in violation of 42 U.S.C. § 1983, as more fully set forth above.

16 86. Defendants subjected decedent MARGARITA LUNA to their wrongful
17 conduct, depriving decedent MARGARITA LUNA of rights described herein,
18 knowingly, maliciously, and with conscious and reckless disregard for whether the
19 rights and safety of decedent MARGARITA LUNA and others would be violated by
20 their acts and/or omissions.

21 87. As a direct and proximate result of the unconstitutional actions, omissions,
22 customs, policies, practices, and procedures of Defendants SHERIFF DON BARNES,
23 and DOES 8 through 10 as described above, Plaintiff sustained serious and permanent
24 injuries and is entitled to damages, penalties, costs, and attorneys' fees.

25 ///

26 ///

27 ///

28 ///

SIXTH CLAIM FOR RELIEF

Negligence – Wrongful Death

By Plaintiff Estate of MARGARITA LUNA As Against All Defendants

88. Plaintiffs reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

89. At all times, Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1 through 10, owed Plaintiffs and decedent MARGARITA LUNA the duty to act with due care in the execution and enforcement of any right, law, or legal obligation.

90. At all times, Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1 through 10, owed Plaintiffs and decedent MARGARITA LUNA the duty to act with reasonable care.

91. These general duties of reasonable care and due care owed to Plaintiffs and decedent MARGARITA LUNA by these Defendants include but are not limited to the following specific obligations:

- a. To summon, or transport Decedent to, necessary and appropriate emergency medical and mental health care;
- b. To refrain from unreasonably creating danger or increasing Decedent's risk of harm;
- c. To use generally accepted law enforcement procedures and tactics that are reasonable and appropriate for Decedent's status as a person in medical and mental health crisis with serious medical and mental health needs;
- d. To conduct state-mandated safety and welfare checks of inmates in the custody of the COUNTY Jails, which included the Orange County Intake and Release Center;
- e. To refrain from abusing their authority granted them by law; and

f. To refrain from violating Plaintiffs' and Decedent's rights as guaranteed by the United States and California Constitutions, as set forth above, and as otherwise protected by law.

92. Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1 through 10, through their acts and omissions, breached each and every one of the aforementioned duties owed to Plaintiffs and decedent MARGARITA LUNA.

93. Defendants COUNTY and OCSD are vicariously liable for the violations of state law and conduct of their officers, deputies, employees, and agents, including individual named defendants, under California Government Code § 815.2.

94. As a direct and proximate result of these Defendants' negligence, Plaintiffs and decedent MARGARITA LUNA sustained injuries and damages, and against each and every Defendant named in this claim for relief in their individual capacities are entitled to relief, including punitive damages against such individual Defendants.

SEVENTH CLAIM FOR RELIEF

Negligence – Medical Malpractice

By Plaintiff ESTATE OF MARGARITA LUNA As Against DOES 1-10

95. Plaintiffs reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

96. Decedent MARGARITA LUNA was under the care and treatment of Defendants DOES 1 through 10, all of whom were COUNTY medical staff assigned to the COUNTY Jails, including the Orange County Intake and Release Center, who were required to examine, treat, monitor, prescribe for and care for her and to provide him with medical attention when he suffered a medical emergency. These Defendants, acting within the scope and course of their employment with Defendants COUNTY and OCSD, negligently, carelessly and unskillfully cared for, attended, handled, controlled; failed to monitor and follow-up; abandoned; failed to classify, failed to

1 appropriately diagnose and/or refer decedent MARGARITA LUNA to specialist
 2 medical care providers; negligently failed to provide physician care; negligently failed
 3 to provide psychiatry care; carelessly failed to detect, monitor, and follow-up with her
 4 condition; and negligently, carelessly and unskillfully failed to possess and exercise
 5 that degree of skill and knowledge ordinarily possessed and exercised by others in the
 6 same profession and in the same locality as Defendants for the benefit of their patient
 7 and dependent detainee MARGARITA LUNA.

8 97. Defendant supervisors and each of them failed to supervise, train and
 9 monitor their subordinates, to maintain proper supervision, classification and staffing,
 10 to timely provide decedent MARGARITA LUNA emergency medical and mental
 11 health care, failed to provide adequate and competent staffing, and to ensure the care
 12 and treatment ordered for decedent MARGARITA LUNA was provided.

13 98. As a direct and legal result of the aforesaid negligence and carelessness of
 14 Defendants' actions and omissions, Plaintiffs sustained injuries and damages, and
 15 against these Defendants, and each of them, are entitled to compensatory damages and
 16 as applicable to this claim for Medical Negligence, to be proven at time of trial.

17 99. Defendants COUNTY and OCSO are vicariously liable for the violations
 18 of state law and conduct of their officers, deputies, employees, and agents, including
 19 individual named defendants, under California Government Code § 815.2.

20 **EIGHTH CLAIM FOR RELIEF**

21 **Violation of California Government Code § 845.6**

22 **By Plaintiff ESTATE OF MARGARITA LUNA As Against All Defendants save**
 23 **SHERIFF BARNES**

24 100. Plaintiff realleges and incorporates herein by reference each of the
 25 preceding paragraphs of this complaint, and any subsequent paragraphs.

26 101. The Decedent, MARGARITA LUNA, required immediate medical care
 27 and treatment. However, the defendants, SERGEANT ALIAN SIRGY, DEPUTY
 28 KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA

MADDALENA, and Does 1 through 10, who were employed by Defendants County and OCSD, failed to take reasonable action to summon immediate medical care and treatment. Each individual defendant had knowledge of or reason to know about MARGARITA LUNA's need for immediate medical care and treatment, yet they failed to take reasonable action to summon such care and treatment. This conduct of the defendants is in violation of California Government Code § 845.6.

102. Defendants COUNTY and OCSD are vicariously liable for the violations of state law and conduct of their officers, deputies, employees, and agents, including individual named defendants, under California Government Code § 815.2.

103. As a direct and proximate result of the aforementioned acts of these Defendants, decedent MARGARITA LUNA was injured as set forth above, and their losses entitle Plaintiff to all damages allowable under California law. Plaintiff sustained serious and permanent injuries and is entitled to damages, penalties, costs, and attorney fees under California law, including punitive damages against these individual Defendants.

NINTH CLAIM FOR RELIEF

Violation of California Civil Code §52.1 (Tom Bane Act)

**By Plaintiff ESTATE OF MARGARITA LUNA As Against All Defendants save
SHERIFF BARNES**

104. Plaintiffs reallege and incorporate herein by reference each of the preceding paragraphs of this complaint, and any subsequent paragraphs.

105. Plaintiffs bring the claims in this claim for relief as a survival claim permissible under California law, including Cal. Code of Civ. Proc. § 377.20 *et. seq.*

106. By their acts, omissions, customs, and policies, Defendants SERGEANT ALIAN SIRGY, DEPUTY KENNETH HARNDEN, DEPUTY AIMEE HIDALGO, DEPUTY ALYSSA MADDALENA, and DOES 1 through 10, each acting in concert/conspiracy, as described above, while decedent MARGARITA LUNA was in custody, and by threat, intimidation, and/or coercion, interfered with, attempted to

1 interfere with, and violated MARGARITA LUNA's rights under California Civil Code
2 § 52.1 and under the United States Constitution and California Constitution as follows:

- 3 a. The right to be free from objectively unreasonable treatment and
4 deliberate indifference to Decedent's serious medical needs while in
5 custody as a pretrial detainee as secured by the Fourth and/or Fourteenth
6 Amendments to the United States Constitution and by California
7 Constitution, Article 1, §§ 7 and 13;
- 8 b. The right for the familial association to be free from government
9 interference as secured by the Fourteenth Amendments to the United
10 States Constitution;
- 11 c. The right to enjoy and defend life and liberty; acquire, possess, and protect
12 property; and pursue and obtain safety, happiness, and privacy, as secured
13 by the California Constitution, Article 1, § 1; and
- 14 d. The right to emergency medical and mental health care as required by
15 California Government Code §845.6.

16 107. Defendants' violations of decedent MARGARITA LUNA's due process
17 rights with deliberate indifference, in and of themselves constitute violations of the
18 Bane Act. Alternatively, separate from, and above and beyond, Defendants' attempted
19 interference, interference with, and violation of MARGARITA LUNA's rights as
20 described above, Defendants violated MARGARITA LUNA's rights by the following
21 conduct constituting threat, intimidation, or coercion:

- 22 a. With deliberate indifference to Decedent's serious medical and mental
23 health needs, suffering, and risk of grave harm including death, depriving
24 Decedent of necessary, life-saving care for her medical needs;
- 25 b. With deliberate indifference to hazards that posed a risk to individuals in
26 custody, such as Decedent;
- 27 c. Subjecting Decedent to ongoing violations of her rights to prompt care for
28 her serious medical and mental health needs over days, causing immense

1 and needless suffering, intimidation, coercion, and threats to her life and
2 well-being;

3 d. Deliberately contracting for and causing the provision of inadequate and
4 incompetent medical health care to Orange County jail detainees and
5 inmates;

6 e. Requiring medical and mental health staff to work outside their scope of
7 practice, and conduct assessments, triage, and make medical and housing
8 decisions for patients, including Decedent, they are not competent to
9 make; and

10 f. Instituting and maintaining the unconstitutional customs, policies, and
11 practices described herein, when it was obvious that in doing so,
12 individuals such as Decedent would be subjected to violence, threat,
13 intimidation, coercion, and ongoing violations of rights as Decedent was
14 here.

15 108. The threat, intimidation, and coercion described herein were not necessary
16 or inherent to Defendants' violation of decedent MARGARITA LUNA's rights, or to
17 any legitimate and lawful jail or law enforcement activity.

18 109. Further, all of Defendants' violations of duties and rights, and coercive
19 conduct, described herein were volitional acts; none was accidental or merely
20 negligent.

21 110. Further, each Defendant violated decedent MARGARITA LUNA's rights
22 with reckless disregard and with the specific intent and purpose to deprive her of her
23 enjoyment of those rights and of the interests protected by those rights.

24 111. Defendant COUNTY is vicariously liable for the violations of state law
25 and conduct of their officers, deputies, employees, and agents, including individual
26 named defendants, under California Government Code § 815.2.

27 112. As a direct and proximate result of Defendants' violation of California
28 Civil Code § 52.1 and of decedent MARGARITA LUNA's rights under the United

1 States and California Constitutions, Plaintiff sustained injuries and damages, and
 2 against each and every Defendant is entitled to relief, including punitive damages
 3 against all individual Defendants, and all damages allowed by California Civil Code
 4 §§ 52 and 52.1 and California law, not limited to costs attorneys' fees, and civil
 5 penalties.

6 **REQUEST FOR RELIEF**

7 Wherefore, Plaintiffs respectfully requests that the Court enter a judgment as
 8 follows:

- 9 A. Wrongful death of MARGARITA LUNA , pursuant to Cal. Code of Civ.
 10 Proc. § 377.60 *et. seq.*;
- 11 B. Loss of support and familial relationships, including loss of love,
 12 companionship, comfort, affection, society, services, solace, and moral
 13 support, pursuant to Cal. Code of Civ. Proc. § 377.60 *et. seq.*;
- 14 C. MARGARITA LUN's coroner's fees, funeral and burial expenses,
 15 pursuant to Cal. Code of Civ. Proc. § 377.20 *et. seq.*;
- 16 D. Violation of MARGARITA LUNA's constitutional rights, pursuant to
 17 Cal. Code of Civ. Proc. § 377.20 *et. seq.* and federal civil rights law;
- 18 E. MARGARITA LUNA's loss of life, pursuant to federal civil rights law;
- 19 F. MARGARITA LUNA's conscious pain, suffering, and disfigurement,
 20 pursuant to federal civil rights law;
- 21 G. General Damages, including wrongful death and survival damages, in
 22 excess of the mandatory amount for jurisdiction in the Unlimited Superior
 23 Court;
- 24 H. Non-Economic Damages, including wrongful death and survival
 25 damages, according to proof plus all further and proper relief;
- 26 I. Punitive damages as to individual peace officer defendants;
- 27 J. Attorney's fees pursuant to State Law (Cal. Code Civ. Proc. § 1021.5 &
 28 private attorney general doctrine);

1 K. Penalties under the Tom Bane Act;

2 L. Interest; and

3 M. All other damages, penalties, costs, interest, and attorneys' fees as allowed
4 by 42 U.S.C. §§ 1983 and 1988; California Code of Civil Procedure §§
5 377.20 *et. seq.*, 377.60 *et. seq.*, and 1021.5; California Civil Code §§ 52
6 *et. seq.*, 52.1; and as otherwise may be allowed by California and/or
7 federal law.

8 **Dated: November 20, 2023**

LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION

9
10 By: 
11 Christian Contreras, Esq.
12 Attorneys for Plaintiffs,
13 ESTATE OF MARGARITA LUNA , et al.
14

15 **DEMAND FOR JURY TRIAL**

16 Plaintiffs, ESTATE OF MARGARITA LUNA, D.P.1, D.P.2, RAYMUNDO
17 LUNA, and MARGARITA LUNA hereby make a demand for a jury trial in this action.

18 **Dated: November 20, 2023**

LAW OFFICES OF CHRISTIAN CONTRERAS
A PROFESSIONAL LAW CORPORATION

19
20 By: 
21 Christian Contreras, Esq.
22 Attorneys for Plaintiffs,
23 ESTATE OF MARGARITA LUNA , et al.
24
25
26
27
28